

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A NON-
MEMBER OF THE STATE BAR OF
ARIZONA,**

DOUGLAS KOUFFIE,

Respondent.

PDJ 2023-9048

FINAL JUDGMENT AND ORDER

(State Bar No. 22-0627)

FILED OCTOBER 11, 2023

The Presiding Disciplinary Judge having accepted an Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct.,

IT IS ORDERED that **Douglas Kouffie** is admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent is placed on probation for a period of six months with the following terms:

1. Within 90 days, Respondent shall pay restitution in the sum of \$11,845.00 to Adelina Bolognese. Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, to provide proof of timely payment of restitution.
 2. Respondent shall commit no further violations of the Rules of Professional Conduct.
- Probation may be terminated early upon full compliance with these terms.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00 within 30 days. There are no costs or expenses incurred by the office of the Presiding Disciplinary Judge in these proceedings.

DATED this 11th day of October, 2023.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

Copy of the foregoing emailed
this 11th day of October, 2023, to:

Kelly J. Flood
LRO@staff.azbar.org

Tom Slutes
tslutes@sluteslaw.com

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A NON-
MEMBER OF THE STATE BAR OF
ARIZONA,**

DOUGLAS KOUFFIE,

Respondent.

PDJ 2023-9048

**ORDER ACCEPTING
AGREEMENT FOR DISCIPLINE
BY CONSENT**

(State Bar No. 22-0627)

FILED OCTOBER 11, 2023

On October 3, 2023, the parties filed an Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct. The State Bar of Arizona is represented by Kelly J. Flood. Respondent Douglas Kouffie is represented by Tom Slutes. The Agreement resolves a formal complaint filed on June 6, 2023.

Contingent on approval of the proposed form of discipline, Mr. Kouffie has voluntarily waived his right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. As required by Rule 53(b)(3), Ariz. R. Sup. Ct., notice of the Agreement was sent to the complainant, who advised the State Bar she would not be submitting an objection.

The Agreement details a factual basis in support of Mr. Kouffie’s conditional admissions and is incorporated by reference. *See* Rule 57(a)(4), Ariz. R. Sup. Ct. Mr. Kouffie conditionally admits violating ER 1.1, ER 1.5, and ER 1.15(d). As a sanction, the parties agree to the imposition of an admonition, probation with specified terms, and payment of the State

Bar's costs. The State Bar conditionally agrees to dismiss alleged violations of ER 1.3, ER 1.4, ER 5.5, and ER 7.1(a) and (b).

The Agreement summarizes the admitted misconduct – which arose out of Mr. Kouffie's handling of an immigration matter -- as follows:

Respondent undertook to provide services for which he had no prior experience as a lawyer. Respondent's services were of no value to the client, and he charged above the Arizona market rate for his services.

Sanctions imposed against lawyers "shall be determined in accordance with the American Bar Association's *Standards for Imposing Lawyer Sanctions*" ("ABA Standards"). Rule 58(k), Ariz. R. Sup. Ct. In evaluating the propriety of an agreed-upon sanction, the PDJ considers the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct, and the existence of aggravating and mitigating factors.

The parties rely on ABA Standard 4.53, which states that a reprimand is generally appropriate when a lawyer "(a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or (b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client." They agree that Mr. Kouffie violated duties owed to his client, the legal system, and the public. They further agree that he "was knowingly in violation of the Rules of Professional Conduct because he was aware that he had no prior experience in providing the services, and had no supervision by an experienced immigration lawyer." In

terms of harm, the Agreement states:

The client received no value for Respondent's services, for which she overpaid and had to retain successor counsel at an additional cost. The client was delayed in obtaining relief, and she and her sister experienced additional hard costs associated with the delay. The immigration system was also burdened by additional processing.

The parties stipulate to the existence of one aggravating factor: indifference to making restitution (Mr. Kouffie has acknowledged retaining an unearned portion of fees since June of 2022). They agree that the following four mitigating factors apply: absence of a prior disciplinary record; absence of a dishonest or selfish motive; full and free disclosure to disciplinary board or cooperative attitude toward proceedings; and inexperience in the practice of law (Mr. Kouffie was first admitted to practice law in Idaho in 2021).

Based on the mitigating factors, the parties agree that the presumptive sanction of reprimand should be mitigated to an admonition with terms of probation that include a full refund of fees paid by the complainant. The PDJ concurs and deems the Agreement adequate to serve the recognized goals of the attorney discipline system.

IT IS ORDERED accepting the Agreement for Discipline by Consent. A final judgment and order is separately filed this date.

DATED this 11th day of October, 2023.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

Copy of the foregoing emailed
this 11th day of October, 2023, to:

Kelly J. Flood
LRO@staff.azbar.org

Tom Slutes
tslutes@sluteslaw.com

by: SHunt

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Staff Bar Counsel
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Email: tslutes@sluteslaw.com
Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A NON-
MEMBER OF
THE STATE BAR OF ARIZONA,**

DOUGLAS KOUFFIE

Respondent.

PDJ 2023-9048

State Bar File No. **22-0627**

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, and Respondent Douglas Kouffie who is represented in this matter by counsel, Tom Slutes, hereby submit their Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct. A formal

complaint was filed June 6, 2023. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant by email on September 8, 2023. Complainant informed Bar Counsel that she will not object to the terms of this agreement.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 1.1, ER 1.5, and ER 1.15(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **Admonition with Probation** terms of which are set in Sanctions below. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order. If costs are not paid within the 30 days interest will begin to accrue at the legal rate.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Idaho on June 7, 2021.

COUNT ONE (File no. 22-0627/Bolognese)

2. In September 2021, just a few months after he was admitted to practice law in Idaho, Respondent acquired a Phoenix-based law firm known as Diamondback Legal from Gabriel Vadasz. Neither Vadasz nor Respondent were admitted in Arizona at the time of the acquisition.

3. At all times relevant to this matter, nowhere on the Diamondback website did it note that Respondent is not admitted to practice in Arizona, or where he is admitted.

4. Adelina Bolognese retained Respondent at Diamondback Legal for an immigration matter on October 28, 2021. She wanted to assist her sister, Elisa Georgia Bocancea (“Elisa”), in obtaining an employment-based visa and/or a visa extension. Bolognese owns a property business in Scottsdale and wanted her sister to move to Arizona from Canada to work for her.

Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

5. Respondent's fee agreement with Bolognese provided the Phoenix address of the firm, but did not note that Respondent is not admitted to practice in Arizona:



3101 N Central Ave, Ste 1150
Phoenix, AZ 85012
(602) 726 2045

Immigration Law
Douglas K. Kouffie, Esq.

Flat Fee Representation Agreement for Immigration Law Matter

6. The fee agreement called for a "flat fee" of \$11,500. It did not state that it was earned on receipt.

7. Respondent's fee agreement stated:

The flat fee retainer is non-refundable; however, the Client has the right to discharge the Firm and receive a full billing for all work completed on the Client's case. The fee reflects not simply the number of hours which the Attorney may devote to the Client's representation, but also the experience, reputation, skill and efficiency of the Attorney, as well as, the potential inability of the Attorney to accept other employment during the pendency of the representation.

8. Bolognese paid \$11,845 by credit card on October 28, 2021. (The additional \$345 was a 3% credit card processing fee.)

9. Respondent prepared a visa packet and cover letter for Elisa, who intended to use it in person at a port of entry.

10. Elisa brought the paperwork with her to a port of entry on the Canadian border, but was told by a border agent that the documentation was both wrong and incomplete. She was able to gain entry as a visitor with a friend, but then would need to go back through with the correct paperwork.

11. From February 14 – March 1, 2022, Elisa emailed Respondent:

Elisa Bocancea <elisa.bocancea@gmail.com>
To: Douglas Kouffie <douglas@diamondbacklegal.com>
Cc: Angie Bocancea <angie@topcomp.com>

Mon, Feb 14, 2022 at 7:48 AM

Hi Douglas,

As mentioned on the phone I went through the border crossing in Montana and they said my paperwork was incomplete and I had the wrong information. They said the paperwork filled out was for a 'L' type visa not a TN. So they let me through as a visitor only because my friend was with me and she had a return flight booked. Attached is the check list they gave and what was missing was: original university degree, job description and title matching management consulting and TN paperwork.

I will now have to go back and try to cross the border again once these documents are complete in the package. Can you please assist with the documents and remove any 'L' visa documents as I'm not sure what those are.

12. Elisa emailed Respondent again on February 17, 2022, and asked if he had looked at the documentation, because she needed to leave the country by March 4, 2022.

13. On February 25, 2022, Bolognese emailed Respondent, provided information that was needed to correct the visa application packet, and reminded Respondent that time was of the essence for Elisa due to her visitor status

14. On February 28, 2022, Elisa emailed Respondent to say she hadn't heard anything from him. She reminded him she was on a "tight time crunch" with her last legal day in the US on March 3, 2022.

15. On March 1, 2022, Bolognese emailed Respondent and asked for a refund of the entire \$11,845 she had paid.

16. Bolognese hired successor counsel, a lawyer with over 20 years of experience, who charged \$3,500 for a TN visa for Elisa, which was granted. Successor counsel reviewed the paperwork that Respondent had prepared, but could not use any of it.

17. Respondent and Bolognese argued for several weeks about what information Respondent was obligated to provide by way of an accounting.

18. Bolognese submitted a bar charge, and intake counsel reached out to Respondent to discuss it. When asked for an accounting, Respondent continued to assert that it was not required.

19. On June 22, 2022, in response to a screening investigation, Respondent provided the following accounting to Bar Counsel:

Accounting for Topcomp Homes

Attorney Communication with Clients (Emails, Text Messages and Phone calls) : 4 hours : \$1400

Paralegal Communication with Clients: 8.7 hours : \$1087.5

Attorney Research on TN Visa Professions List: 9 hours: \$3150

Attorney Research on EB3 Visa: 5 hours: \$1,750

Document Review: 4 hours : \$1,400

Case Prep for TN Visa: 6 hours: \$2,100

Communication with Border agent: .50 hours : \$175

Clients in person signing: .50 : \$175

Total: \$11,237.

20. Respondent acknowledged owing Bolognese a refund of over ~\$2,300, but has kept the money in trust for well over a year.

21. The Bar's expert, Tarik Sultan, an experienced immigration lawyer admitted to practice in Arizona, has opined that the work that Respondent performed for Bolognese and Elisa did not meet minimum standards of competency.

22. Mr. Sultan also opined that Respondent grossly overcharged for the services provided.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation. Respondent conditionally admits that he violated Rule 42, Ariz. R. Sup. Ct., specifically ER 1.1, ER 1.5, and ER 1.15.

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss allegations of violations of ER 1.3, ER 1.4, ER 5.5, and ER 7.1(a) and (b).

RESTITUTION

Respondent agrees to pay Restitution in the amount of \$11,845.00 to Adelina Bolognese within ninety (90) days of entry of the final judgment and order.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: Admonition with Probation for six (6) months, **the terms of probation which will consist of:**

1. RESTITUTION: Respondent shall pay restitution to the following individual(s) in the specified amount(s) within 90 days from the date of service of this Order, unless otherwise specified herein: \$11,845.00 to Adelina Bolognese. Respondent shall contact the State Bar Compliance Monitor at 602-340-7258, to provide proof of timely payment of restitution.

Probation may be terminated early upon proof of payment of restitution.

Respondent shall commit no further violations of the Rules of Professional Conduct.

NON-COMPLIANCE WITH PROBATION

If Respondent fails to comply with any of the foregoing probation terms and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to recommend an appropriate sanction. If the State Bar alleges that Respondent failed to comply with any of the foregoing terms the burden of

proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

If Respondent violates any of the terms of this agreement, the State Bar may bring further discipline proceedings.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standard 1.3, In re Pappas*, 159 Ariz. 516, 768 P.2d 1161 (1988). The *Standards* provide guidance with respect to an appropriate sanction in this matter.

In determining an appropriate sanction, the Court considers the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Standard 3.0*.

The parties agree that the following *Standard 4.5 Lack of Competence* is the appropriate *Standard* given the facts and circumstances of this matter: *Standard*

4.5 Lack of Competence provides that Reprimand is generally appropriate when a lawyer:

- a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or
- b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

In this case, Respondent undertook to provide services for which he had no prior experience as a lawyer, Respondent's services were of no value to the client, and he charged above the Arizona market rate for his services.

The duty violated

Respondent's conduct violated his duty to the client, the profession, the legal system and the public. The client spent time and money for services that had no value, the client had to retain and pay another lawyer to obtain relief, and the immigration system was burdened by additional processing.

The lawyer's mental state

Respondent was knowingly in violation of the Rules of Professional Conduct because he was aware that he had no prior experience in providing the services, and had no supervision by an experienced immigration lawyer.

The extent of the actual or potential injury

There was actual harm to the client, the profession, and the legal system. The client received no value for Respondent's services, for which she overpaid and had to retain successor counsel at an additional cost. The client was delayed in obtaining relief, and she and her sister experienced additional hard costs associated with the delay. The immigration system was also burdened by additional processing.

Aggravating and mitigating circumstances

The presumptive sanction is Reprimand. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

In aggravation:

- c) 9.22(j) indifference to making restitution: Respondent has acknowledged retaining at least the unearned portion of the fees since June of 2022.

In mitigation:

- a) 9.32(a) absence of a prior disciplinary record;
- b) 9.32(b) absence of dishonest or selfish motive;
- c) 9.32(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings; and
- d) 9.32(f) inexperience in the practice of law: Respondent was admitted to practice in Idaho in June of 2021.

Discussion

The parties agree that the presumptive sanction should be mitigated to an Admonition with Probation because Respondent now recognizes that at the time he undertook to provide the services he lacked the requisite competence, he overcharged for his services, and he is now willing to provide a full refund to the client.

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

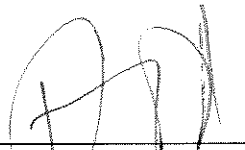
CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. In re *Peasley*, 208 Ariz. 27

(2004). Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Admonition with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 31st day of ~~September~~ October 2023

STATE BAR OF ARIZONA



Kelly J. Flood
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this _____ day of September, 2023.

Douglas Kouffie
Respondent

(2004). Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Admonition with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

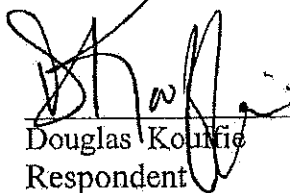
DATED this _____ day of September 2023

STATE BAR OF ARIZONA

Kelly J. Flood
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 29th day of September, 2023.



Douglas Koufie
Respondent

DATED this 3rd ~~September~~ October, 2023.

Slutes Sakrison & Rogers PC

Tom Slutes

Tom Slutes
Counsel for Respondent

Approved as to form and content

Maret Vessella

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 3rd day of ~~September~~ October, 2023.

Copy of the foregoing emailed
this 3rd day of ~~September~~ October, 2023, to:

The Honorable Margaret H. Downie
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/mailed
this 3rd day of ~~September~~^{October}, 2023, to:

Tom Slutes
Slutes Sakrison & Rogers PC
4801 E Broadway Blvd Ste 301
Tucson, AZ 85711-3635
Email: tslutes@sluteslaw.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 3rd day of ~~September~~^{October}, 2023, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

by:


KJF/ism

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a NON-Member of
The State Bar of Arizona,
Douglas Kouffie, Respondent.

File No. 22-0627

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Additional Costs

Total for additional costs \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$1,200.00

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A NON-
MEMBER OF THE STATE BAR OF
ARIZONA,**

DOUGLAS KOUFFIE,

PDJ 2023-9048

**FINAL JUDGMENT AND
ORDER**

State Bar No. 22-0627

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement.

Accordingly:

IT IS ORDERED that Respondent, **Douglas Kouffie**, is **Admonished** for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent is placed on probation for a period of six (6) months. The terms of probation are:

- a) **RESTITUTION:** Respondent shall pay restitution to the following individual(s) in the specified amount(s) within 90 days from the date of

service of this Order, unless otherwise specified herein: \$11,845.00 to Adelina Bolognese. Respondent shall contact the State Bar Compliance Monitor at 602-340-7258, to provide proof of timely payment of restitution.

Probation may be terminated early upon completion.

Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within 30 days from the date of service of this Order.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order.

DATED this _____ day of October, 2023.

**Margaret H. Downie, Presiding Disciplinary
Judge**

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of October, 2023.

Copies of the foregoing emailed
this _____ day of October, 2023, to:

Tom Slutes
Slutes Sakrison & Rogers PC
4801 E Broadway Blvd Ste 301
Tucson, Arizona 85711-3635
Email: tslutes@sluteslaw.com
Respondent's Counsel

Copy of the foregoing emailed
this _____ day of October, 2023, to:

Kelly J. Flood
Staff Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing emailed
this ____ day of October, 2023 to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by:_____